HON'BLE SRI JUSTICE C.V. RAMULU

Friday, the 8th day of June,2007

W.P.No.30478 of 1997

Between:-

The Executive Engineer,
Somasila Project Division
No.1, Somasila-524 361,
Nellore District … Petitioners

and

Chintapalli Ramaiah
and another … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.30478 of 1997

ORAL ORDER:

This Writ Petition is filed by the Management being aggrieved by an Award dated 18-12-1996 made in I.D.No.504 of 1991 on the file of Labour Court at Guntur.

It appears, while the 1st respondent was working with the petitioner-management, his services were terminated with effect from 29-5-1981. Thereafter, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') before the Labour Court stating that he had put in continuous service as a Sweeper from 1-8-1977 to 28-5-1981 without any blame and he had completed 240 days of service preceding the date of termination and as such, the order of termination is violative of Section 25-F of the Act. A detailed counter affidavit was filed by the petitioner-management before the Labour Court denying the allegations made by the workman.

Before the Labour Court, the workman examined himself as W.W.1 and marked Ex.W1. On behalf of the management, though M.W.1 was examined, no documents were marked. After a detailed consideration of both oral and documentary evidence, the Labour Court came to the conclusion that the 1st respondent-workman had put in more than 240 days in the calendar year preceding the date of his termination and no notice of any kind was given to him before

terminating his service; therefore, the 1st respondent is entitled for reinstatement with continuity of service, but without any back wages. Aggrieved by the same, the present Writ Petition is filed.

Learned counsel for the petitioner strenuously contended that the 1st respondent worked hardly for four years between 1-8-1977 and 28-5-1981. Further, he raised the dispute after more than 10 years i.e. in the year 1991. The very claim petition ought not to have been entertained by the Labour Court and no relief could have been granted to the workman.

Whereas, the learned counsel for the 1st respondent-workman supported the Award passed by the Labour Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Award and other material made available on record.

The management had not disputed as to the fact that the 1st respondent had worked for about 4 years. It had simply denied that the workman did not put in 240 days of continuous service. But, no evidence was placed before the Labour Court in that regard. On the other hand, the Labour Court, on the basis of the evidence placed before it, came to the conclusion that the 1st respondent had put in 240 days of continuous service in the calendar year preceding the date of his termination and as such, the termination of the 1st respondent without following the procedure as required under the law is arbitrary. However, I am of the view that while granting the relief of reinstatement, the Labour Court extended very very benevolently 10 years of service for which the 1st respondent is not entitled for. Respondent No.1 raised the dispute before the Labour Court, admittedly, after more than 10 years of his termination. This, in fact,

had missed the attention of the Labour Court while granting the relief of continuous service and other benefits. I am of the view that the Award passed by the Labour Court is liable to be modified and is modified to the following effect:

> "The workman is entitled to reinstatement, but without continuity of service and without any back wages."

With the above modification of the award of the Labour Court, the Writ Petition is disposed of. No order as to costs.

08-6-2007

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